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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,747	11/27/2001	Reuven Wachtfogel	U013624-1	2667
140	7590	01/27/2006	EXAMINER	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			CHOWDHURY, SUMAIYA A	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/914,747

Applicant(s)

WACHTFOGEL ET AL.

Examiner

Sumaiya A. Chowdhury

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-84 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- Group I, claims 1-20, and 66-68 are drawn to displaying ads by receiving an advertisement tag:
  1. claim(s) 1-8, and 66, drawn to displaying advertisements comprising receiving an advertisement tagged with a delay tag.
  2. claim(s) 9-16, and 67, drawn to drawn to displaying advertisements comprising receiving an advertisement tagged with a tag indicating a NAP threshold.
  3. claim(s) 17-20, and 68, drawn to displaying advertisements comprising receiving an advertisement tagged with a replacement tag.
- Group II, claim(s) 21-35, and 69, drawn to enabling a first user to transmit a recommendation of a transmitted program to a second user.
- Group III, claim(s) 36, and 70, drawn to a payment method for a pay television system.

- Group IV, claims 37-40, and 71-72, are drawn to manipulating the display of the advertisement:
  1. claim(s) 37-38, and 71, drawn to counteracting replacement of advertisements for an item offered by a plurality of vendors.
  2. claim(s) 39-40, and 72, drawn to replacing advertisements for an item offered by a plurality of vendors.
- Group V, claim(s) 41-45, and 73, drawn to enabling a user to transmit an advertisement message to a targeted audience.
- Group VI, are drawn to 46-49, and 74-76, are drawn to detecting a broadcast commercial:
  1. claim(s) 46, and 74, drawn to detecting a broadcast commercial in a broadcast digital stream comprising detecting indicia in metadata added to the broadcast digital stream.
  2. claim(s) 47-48, and 75, drawn to detecting a broadcast commercial in a broadcast digital stream comprising performing an analysis on content of the broadcast digital stream to detect parameters characterizing the commercial.
  3. claim(s) 49, and 76, drawn to detecting a broadcast commercial in a broadcast digital stream comprising performing an analysis on a user behavior during display.
- Group VII, claim(s) 50, and 77, drawn to storing a broadcast commercial for future display to a user.

- Group VIII, claim(s) 51, and 78, drawn to displaying a stored broadcast commercial to a user.
- Group IX, claim(s) 52, and 79, drawn to selecting a stored broadcast commercial for displaying to a user.
- Group X, claim(s) 53-54, and 80, drawn to protecting metadata added to a broadcast digital stream.
- Group XI, claim(s) 55-58, and 81, drawn to a billing method associated with a broadcast commercial broadcast to a multiplicity of users.
- Group XII, claim(s) 59-62, and 82, drawn to enabling a user to search advertisements transmitted to a user unit.
- Group XIII, claim(s) 63, and 83, drawn to purchasing an item via a communication network.
- Group XIV, claim(s) 64-65, and 84, drawn to deleting a stored broadcast commercial.

2. The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Each Group of Groups I-XIV has a different special technical feature as discussed above, wherein the feature of any of Groups I-XIV is not required for any of the other groups.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- Group I:
  1. claim(s) 1-8, and 66, drawn to displaying advertisements comprising receiving an advertisement tagged with a delay tag.
  2. claim(s) 9-16, and 67, drawn to drawn to displaying advertisements comprising receiving an advertisement tagged with a tag indicating a NAP threshold.
  3. claim(s) 17-20, and 68, drawn to displaying advertisements comprising receiving an advertisement tagged with a replacement tag.
- Group IV:
  1. claim(s) 37-38, and 71, drawn to counteracting replacement of advertisements for an item offered by a plurality of vendors.
  2. claim(s) 39-40, and 72, drawn to replacing advertisements for an item offered by a plurality of vendors.
- Group VI:
  1. claim(s) 46, and 74, drawn to detecting a broadcast commercial in a broadcast digital stream comprising detecting indicia in metadata added to the broadcast digital stream.

2. claim(s) 47-48, and 75, drawn to detecting a broadcast commercial in a broadcast digital stream comprising performing an analysis on content of the broadcast digital stream to detect parameters characterizing the commercial.
3. claim(s) 49, and 76, drawn to detecting a broadcast commercial in a broadcast digital stream comprising performing an analysis on a user behavior during display.

3. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above.

The species listed above do not relate to a single general inventive concept under PCT

Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Each group has different special technical features.

Group I-1 has different special technical feature directed to displaying ads by receiving an advertisement tag, comprising receiving an advertisement tagged with a delay tag, which is not required for Groups I-2 and I-3.

Group I-2 has different special technical feature directed to displaying ads by receiving an advertisement tag, comprising receiving an advertisement tagged with a tag indicating a NAP threshold, which is not required by Groups I-1 and I-3.

Group I-3 has different special technical feature directed to displaying ads by receiving an advertisement tag, comprising receiving an advertisement tagged with a replacement tag.

Group IV-1 has different special technical feature directed to manipulating the display of the advertisement, comprising counteracting replacement of advertisements for an item offered by a plurality of vendors, which is not required by Group IV-2.

Group IV-2 has different special technical feature directed to manipulating the



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display of the advertisement, comprising replacing advertisements for an item offered by a plurality of vendors, which is not required by Group IV-1.

Group VI-1 has different special technical feature directed to detecting a broadcast commercial, comprising detecting indicia in metadata added to the broadcast digital stream, which is not required by Groups VI-2 and VI-3.

Group VI-2 has different special technical feature directed to detecting a broadcast commercial, comprising performing an analysis on content of the broadcast digital stream to detect parameters characterizing the commercial, which is not required by Groups VI-1 and VI-3.

Group VI-3 has different special technical feature directed to detecting a broadcast commercial, comprising performing an analysis on a user behavior during display, which is not required by Groups VI-1 and VI-2.

A telephone call was made to Julian Cohen on 1/11/06 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### ***Conclusion***


Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC



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